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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,089	01/28/2004	Arno D. Bruns	08020.0011-00000	9826

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER
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PLUCINSKI, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/765,089

**Applicant(s)**

BRUNS, ARNO D.

**Examiner**

Jamisue A. Plucinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6, 8-15, 17, 19-25, 29, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (Us 2004/0225507).

3. With respect to Claims 1, 12, 23, 24, 25 and 30: Smith discloses the use of a method, system and a computer readable medium with instructions to configure a processor to perform functions for planning a delivery of at least one good comprising:

- a. Receiving a sales order with a description of a good, the location of the good and requested delivery date (Paragraph 0017);
- b. selecting a source location for the good (Paragraph 0020, Smith discloses determining which supplier is associated with the order, therefore the examiner considers this to be selecting the source location of the good);
- c. determining a set of trips based on a set of geographic routes, transportation service provider information, and scheduling information (Paragraphs 0024 and 0025,

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ship schedules from each supplier are received, in order to determine the delivery date.

The examiner considers this to be a set of trips);

d. selecting a trip from the set of trips based on a set of criteria (Paragraph 0024);

and

e. scheduling the trip such that the good is scheduled to be delivered from the source location to the destination location substantially close to the requested delivery date (Paragraph 0004 and 0034).

4. With respect to Claims 2 and 13: Smith discloses determining a set of trips comprises selecting one or more geographic routes from the set of geographic routes (See Table 1, Page 3).

5. With respect to Claims 3 and 14: Smith discloses selecting one or more geographical routes comprises restricting the set of geographical routes based on a geographical classification for the source location and the destination location (Paragraph 0026, Smith discloses using zones, which the examiner consider to be geographic classification).

6. With respect to Claims 4 and 15: Smith discloses determining a set of trips comprises selecting a transportation service provider for each geographic route (Paragraph 0024).

7. With respect to Claims 6 and 17: Smith discloses the set of criteria comprises at least one criterion representative of closeness of a trip delivery date to the requested delivery date (Paragraph 0034).

8. With respect to Claims 8, 9, 19 and 20: See Smith, Paragraph 0024.

9. With respect to Claims 10 and 21: See abstract and Paragraph 0025.

10. With respect to Claims 11 and 22: See Paragraph 0034 and 0035.

11. With respect to Claim 29: See Paragraph 0037.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.

14. With respect to Claims 27 and 28: Smith discloses the use of selecting a delivery date, however fails to disclose the customer indicating it is a rush order and scheduling for the rush order. The examiner is taking official notice that the use of Rush orders are well known to one of ordinary skill in the art. This is done when ordering same day service, or rush print jobs, or even when ordering express delivery for commercial carriers, and the rush order delivery date is scheduled there with. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to have the user indicate the order is a rush order and schedule accordingly.

15. Claims 5, 7, 16, 18 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of Arunapuram et al. (US 2002/0019759).

16. Smith discloses the use of trip schedules, however fails to disclose eliminating the trip schedules or selecting a trip based on dangerous goods or cost information. Arunapuram

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discloses the use of shipping orders, where a set of trips for a shipping order are set, and a trip is selected based on things such as cost and whether the items are hazardous material (See Arunapuram, abstract and Paragraph 0055). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to have the optimal trip selected, based on criteria, such as hazardous material and cost, as disclosed by Arunapuram, in order to provide an optimum solution based on the customer's needs (See Arunapuram, abstract and Pages 1 and 7).

### *Conclusion*

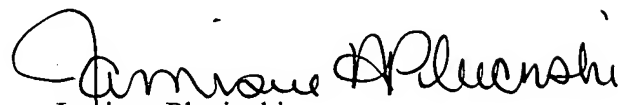
17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lu et al. (5,450,317) discloses the use of a method and system for load planning and Hileman (US 2007/0073552) discloses the use of a transportation system which optimizes routes or trips..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Plucinski whose telephone number is (571) 272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jamisue Plucinski  
Primary Examiner  
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